

Complex Civil Litigation Pilot Program

Expediting Big Cases

Civil cases that required unusual amounts of judicial time—whether because the legal or factual issues were complicated or highly technical or because there were numerous parties and claims—placed strains on the courts. Different judges (or referees) might handle pretrial matters and trial, interspersed with other cases. Not all knew enough about the issues or the law involved to rule authoritatively.

Lawyers, parties, and judges wanted to see complex cases progress more quickly; although the vast majority of these cases were eventually settled, many took years to be resolved.

After exhaustive study, a judicial task force recommended a **pilot program** in which six of the largest superior courts would establish separate complex civil litigation departments. Begun in January 2000, the program has multiple facets:

- Complex cases are calendared separately from the master calendar, so that a single judge handles a case from start to finish.
- Judges assigned to the new departments have experience, interest, and expertise in complex civil cases.
- Judges receive the *Deskbook on the Management of Complex Civil Litigation* and training materials on complex civil case management, to learn innovative case-management techniques. Twice yearly they exchange information and participate in continuing education.
- Several pilot courts hold bench-bar symposiums to educate parties about discovery, case management, alternative dispute resolution, substantive legal areas, and use of technology.
- Some courts allow **electronic filing** (see page 38) and remote access to the register of actions.

The complex case department staff typically consists of one or more clerks, a court reporter, a bailiff, and one or more research attorneys.

The senior clerk is at the “heart of the action,” according to judges, making things work both in and out of the courtroom. “I couldn’t do all this without her,” one judge commented.

The judges also identified one of the program’s greatest benefits: having a research attorney dedicated to each judge. The attorneys research the law, prepare memoranda, explain procedures to the participating attorneys, encourage and coordinate mediation hearings, and relay communications between judge and counsel.

Innovative Management Techniques

Pilot program judges are encouraged to be innovative in managing cases.

- They hold early and frequent case-management conferences.
- Before any **discovery** occurs, some set a conference to tailor discovery to salient issues and approve it quickly.
- They may arrange for difficult **depositions** to be taken at the courthouse, where they can resolve disputes immediately. For disputes arising outside working hours or for depositions in foreign countries, some judges rule by phone.
- Judges encourage and assist in informal dispute resolution through conference calls. They may hold mini-hearings on crucial issues to facilitate settlement.

Impacts

- Pilot program judges handled more than 2,000 complex cases with an average of 22 parties per case.
- Cases received significantly closer judicial supervision, attorneys were better informed, and cases were resolved earlier.
- The program led to more effective and faster case resolution, saving resources and time for litigants and the courts.
- About 95 percent of attorneys reported that the judge understood the issues in their cases well (80 percent said “very well”). More than 90 percent found judges “accessible and helpful,” up from 18 percent before the pilot program.

Examples of Complex Cases

One case in the pilot program had some 20 defendants and 250 class members who had suffered various catastrophic injuries and had received annuities to pay for medical needs. Unauthorized activity by the trustee led to default on the annuity payments, and the injured parties sued.

In another case, 50 suits, including one with class-action allegations, arose from a head-on collision between freight and commuter trains. The parties sought damages in two counties for personal injuries, wrongful death, and loss of consortium. The cases were coordinated before one court.

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